

Notice of Allowability	Application No.	Applicant(s)	
	09/940,208	WINCHESTER, RICHARD M.	
	Examiner Gregory J. Strimbu	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. This communication is responsive to 5/23/05.
2. The allowed claim(s) is/are 12 and 15-19.
3. The drawings filed on 27 August 2001 are accepted by the Examiner.
4. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some*
 - c) None
 of the:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) hereto or 2) to Paper No./Mail Date _____.
 - (b) including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. Notice of References Cited (PTO-892)
2. Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. Notice of Informal Patent Application (PTO-152)
6. Interview Summary (PTO-413),
Paper No./Mail Date 8/24/04 + 8/5/05.
7. Examiner's Amendment/Comment
8. Examiner's Statement of Reasons for Allowance
9. Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Edward L. White on August 5, 2005.

The application has been amended as follows:

In the specification:

page 1,

line 5, inserted --, now abandoned-- following "7/16/99"

In the abstract:

line 1 changed "An apparatus" to --A construction layout stripping--

line 4, deleted "thereon"

line 5, deleted "The construction layout stripping"

deleted lines 6-7

line 8, deleted "while they are fixedly attached to the construction element."

line 9, changed "uprights" to --upright--

line 11, changed "which make cutting a desired length easier" to --for cutting the stripping at a desired length--

deleted lines 12-14

In the claims:

rewrote claim 12 as follows

--12. A construction layout strip comprising:

- a. a pliable, non-elastic base,
- b. a plurality of uprights extending generally perpendicularly to said base, said uprights defining a first group of said uprights and a second group of said uprights,
- c. said first group of said uprights comprising a first plurality of pairs of said uprights,
 - i. each of said first plurality of pairs of said uprights comprising a first said upright and a second said upright defining a center therebetween, said second said upright spaced 1 5/8" from said first said upright with no said uprights therebetween for receiving a 1 5/8" framing member therebetween,
 - ii. said center of each of said first plurality of pairs of said uprights being spaced 8" from said center of at least one adjacent said first plurality of pairs of said uprights,
- d. said second group of said uprights comprising a second plurality of pairs of said uprights,
 - i. each of said second plurality of pairs of said uprights comprising a third said upright and a fourth said upright defining a center therebetween, said third said upright spaced 3 5/8" from said fourth

said upright with no said uprights therebetween for receiving a 3
 5/8" framing member therebetween,
 ii. said center of each of said second plurality of pairs of said uprights
 being spaced 16" from said center of at least one adjacent said
 second plurality of pairs of said uprights.--

claim 15,

 line 2, changed "provide a cutting means to allow" to --enable-- and deleted
 "clean"

claim 16,

 line 1, deleted "two layers,"
 line 2, deleted ", the two layers then"
 line 3, deleted "a material", changed "construction" to --framing-- and deleted
 "and from which the"

 line 4, deleted "uprights can be defined" and changed "does" to --resists
 stretching.--

 deleted line 5

claim 17,

 line 2, changed "construction members . . . thereon" to --the framing members--

claim 18,

line 2, deleted "claimed dependent claim 17 above,"

line 3, deleted ", whereby the strip can be attached to a surface"

line 4, deleted "to facilitate . . . of the strip"

rewrote claim 19 as follows:

--19. The strip of claim 12 further comprising a third group of said uprights comprising a third plurality of pairs of said uprights, each of said third plurality of pairs of said uprights comprising a fifth said upright and a sixth said upright defining a center therebetween, said fifth said upright spaced 1/2" from said sixth said upright with no said uprights therebetween for receiving a 1/2" framing member therebetween, said center of each of said third plurality of pairs of said uprights being spaced 16" from said center of at least one adjacent said third plurality of pairs of said uprights.--

Drawings

The following changes to the drawings have been approved by the examiner and agreed upon by applicant:

In figure 1

- a) change "18a" to --18--
- b) change "16a" to --16--
- c) change "16b" to --16--
- d) change "18b" to --18--

In order to avoid abandonment of the application, applicant must make these above agreed upon drawing changes.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: the prior art of record, absent applicant's own disclosure, fails to teach the entire combination of elements set forth in the claimed invention. Specifically, the prior art of record fails to teach each of said first plurality of pairs of said uprights comprising a first said upright and a second said upright defining a center therebetween, said second said upright spaced 1 5/8" from said first said upright with no said uprights therebetween for receiving a 1 5/8" framing member therebetween, and each of said second plurality of pairs of said uprights comprising a third said upright and a fourth said upright defining a center therebetween, said third said upright spaced 3 5/8" from said fourth said upright with no said uprights therebetween for receiving a 3 5/8" framing member therebetween. See claim 12, lines 8-12 and 18-22.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-

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272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gregory J. Strimba
Primary Examiner
Art Unit 3634
August 5, 2005